

<div>CITY OF SAN JOSÉ, CALIFORNIA</div> <div>Department of Planning, Building and Code Enforcement</div> <div>801 North First Street, Room 400</div> <div>San José, California 95110-1795</div> <div>STAFF REPORT</div>		Hearing Date/Agenda Number	
		P.C. 02/26/03 Item: 3.e.	
		File Number	
		CP 03-005	
		Application Type	
		Conditional Use Permit	
Council District			
6			
Planning Area			
Central			
Assessor's Parcel Number(s)			
264-12-025, -031, -032			
PROJECT DESCRIPTION			
Completed by: Erin Morris			
Location: west side of Sunol Street approximately 260 feet south of Auzerais Street			
Gross Acreage: 2.06		Net Acreage: 2.06	
		Net Density: N/A	
Existing Zoning: HI-Heavy Industrial		Existing Use: Towing Yard/ Abandoned Railroad ROW	
Proposed Zoning: No change		Proposed Use: Vehicle auctions and expansion of vehicle storage for an existing towing yard on a 2.06 gross acre site	
GENERAL PLAN			
Completed by: EM			
Land Use/Transportation Diagram Designations:		Project Conformance:	
Heavy Industrial and Combined Industrial/ Commercial		[x] Yes [] No	
		[] See Analysis and Recommendations	
SURROUNDING LAND USES AND ZONING			
Completed by: EM			
North: Industrial		HI Heavy Industrial	
East: Industrial		HI Heavy Industrial	
South: Industrial		HI Heavy Industrial	
West: Industrial		HI Heavy Industrial	
ENVIRONMENTAL STATUS			
Completed by: EM			
[] Environmental Impact Report found complete		[x] Exempt	
[] Negative Declaration circulated on		[] Environmental Review Incomplete	
[] Negative Declaration adopted on			
FILE HISTORY			
Completed by: EM			
Annexation Title: SW Industrial District		Date: 10/25/1914	
PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION			
[] Approval		Date: _____	Approved by: _____
[x] Approval with Conditions			[X] Action
[] Denial			[] Recommendation
OWNER	APPLICANT/DEVELOPER		
Stan Alongi	Ray Hashimoto		
Motor Body Inc.	HMH Engineers		
455 Sunol Street	P.O. Box 611510		
San Jose, CA 95126	San Jose, CA 95131		

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: Erin Morris

Department of Public Works
See attached memorandum.

Other Departments and Agencies
See attached memorandum from Fire Department

GENERAL CORRESPONDENCE

None received

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The applicant, HMM Engineers, is requesting a Conditional Use Permit to allow vehicle auctions and the expansion of an existing towing yard onto two adjacent vacant parcels, resulting in a total site of 2.06 gross acres. Towing yards are allowed by right in the HI Heavy Industrial Zoning District; however, the Zoning Code requires a Conditional Use Permit (CUP) for any use on a parcel without a permanent, fully enclosed building. A CUP is also required for auction uses in the HI-Heavy Industrial Zoning District. This CUP also functions as a Site Development Permit for the installation of improvements.

The existing towing yard currently occupies three parcels that are accessed from Sunol Street. The subject application proposes to expand vehicle storage onto the two additional parcels and provide additional limited access to the towing yard from Savaker Street. Proposed improvements include paving of the new vehicle storage area, installation of perimeter fencing and additional lighting, a new gate on Savaker Street and associated landscaping and storm water filtration devices.

The State of California requires that all tow companies conduct lien sales to dispose of vehicles that are not claimed within a given time period. The lien sale is conducted in the manner of an auction. The vehicle auctions would be limited to unclaimed vehicles originating from the towing yard located on the subject sites.

The site is surrounded on all sides by industrial uses.

ENVIRONMENTAL REVIEW

The Director of Planning has determined that this project is exempt from environmental review under the provisions of the California Environmental Quality Act pursuant to Section 15332 which pertains to infill development projects that are consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; occur within city limits on a project site of no more than five acres substantially surrounded by urban uses; located on a site that has no value as habitat for endangered, rare or threatened species; would not result in any significant effects relating to traffic, noise, air quality, or water quality; and located on a site that can be adequately served by all required utilities and public services such as that which is proposed.

GENERAL PLAN CONFORMANCE

The existing facility has a General Plan designation of Midtown Specific Plan; Combined Industrial/ Commercial. The proposed area of expansion has a General Plan designation of Heavy Industrial and is not located within the Midtown Specific Plan boundaries. Towing facilities are a type of industrial use that is consistent with both General Plan designations.

ANALYSIS

The primary issues analyzed for the project include; 1) Site Design, and; 2) Land Use Compatibility.

Site Design

The proposal involves paving the expanded vehicle storage area and the installation of new storm water filtration devices in existing and proposed storm drain inlets to ensure that the paved areas do not result in an increase in storm water pollutants. The proposed new gate on Savaker Street is set back 15 feet from the property line to provide adequate vehicle stacking for vehicles entering the site. New landscaping is proposed along Savaker, and the applicant will be required to provide new street trees along Savaker Street and Sunol Street to improve the appearance of the site frontage. The project also includes new fencing and lighting. A revised plan condition has been included in the permit to ensure that the details of the fence, lighting and gate conform to City standards. Based on the above analysis, staff concludes that the site design is appropriate for the proposed use and consistent with City standards.

Land Use Compatibility

Due to the limited size of the proposed auction and the fact that the site is surrounded by industrial uses, staff does not anticipate that the lien sales will result in land use compatibility impacts on adjacent properties. Proposed improvements to the site will provide convenient off-street parking for lien sale customers. Currently, the subject site has a small parking area on Sunol Street near the towing company offices, but there is no on-site parking available accessed from Savaker Street in the area nearest to where the vehicle auctions occur once per week. The proposed gate along Savaker Street will provide convenient access to the expanded towing yard and will allow vehicle auction customers to park on the subject site. As part of the proposed Operation Plan (see attached) the applicant has agreed to notify vehicle auction customers of the new on-site parking accessed from Savaker Street. Staff believes that the proposed project will improve the land use compatibility of both the existing and expanded towing yard by providing necessary on-site parking.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Heavy Industrial and Combined Industrial/Commercial on the adopted San José 2020 General Plan Land Use/Transportation Diagram.

2. The existing facility is within the Midtown Specific Plan and has the General Plan designation of Combined Industrial/ Commercial. The proposed area of expansion has the General Plan designation of Heavy Industrial and is not located within the Midtown Specific Plan boundaries. The proposed use is consistent with the subject site's General Plan Land Use/Transportation Diagram designations of Heavy Industrial and Combined Commercial/ Industrial.
3. The Zoning Code allows auctions uses and outdoor storage on parcels without a fully enclosed building in the Heavy Industrial Zoning District upon issuance of a Conditional Use Permit.
4. The proposed project consists of construction of 25,000 square feet of impervious surface, perimeter fencing along the western and southern edges of the property, new lighting, and a gate and landscaping along the Savaker frontage. A vehicle auction use is also proposed.
5. The proposal involves paving the expanded vehicle storage area and the installation of new storm water filtration devices in existing and proposed storm drain inlets to ensure that the paved areas do not result in an increase in storm water pollutants. The proposed new gate on Savaker Street is set back 15 feet from the property line to provide adequate vehicle stacking for vehicles entering the site. New landscaping is proposed along Savaker, and the applicant will be required to provide new street trees along Savaker Street and Sunol Street to improve the appearance of the site frontage. The project also includes new fencing and lighting. A revised plan condition has been included in the permit to ensure that the details of the fence, lighting and gate conform to City standards.
6. Proposed improvements to the site will provide convenient off-street parking for lien sale customers.

Under the provisions of Section 15332 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project conforms to the City's General Plan.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not:
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or

- b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
 3. The proposed site is adequately served:

By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and

By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.
2. **Plan Revisions.** Within 60 days of the issuance of this permit and prior to recordation, the applicant shall revise the project plans to include the item(s) listed below to the satisfaction of the Director of Planning. Failure to provide said revisions within 60 days shall render this permit null and void.
 - ? Provide detail of the proposed new lighting that conforms to the City Council Policy on Outdoor Lighting and the Zoning Ordinance.
 - ? Provide detail of the proposed wrought iron gate.
 - ? Provide clarification that the proposed chain link fence will be black vinyl clad along the northern and western property lines of the subject site and along the eastern side of the parcel that fronts on Savaker Street.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "Conditional Use Permit for Motor Body Inc" dated February 7, 2003, as revised by Precedent Condition #2, on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 24).
2. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
3. **Operation Plan.** This use shall be operated in the manner specified in the approved Operation Plan titled "Motor Body Operation Plan" dated February 18, 2003. Changes to the Operation Plan shall require additional approval as determined _____ by the Director of Planning.
4. **Lighting.** All new lighting shall conform to the Zoning Ordinance and the City Council Policy for Outdoor Lighting.
5. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, CP 03-005 shall be printed on all construction plans submitted to the Building Division.
6. **Hazardous Materials.** Any hazardous materials regulated by Chapter 17.68 of the San José Municipal Code on the site must be used and stored within approved buildings and/or within areas specified on the approved plan set, if any, in full compliance with the City's Hazardous Material Ordinance and the Hazardous Materials Management Plan for the site approved by the San José Fire Prevention Bureau.
7. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings, fences, and wall surfaces within 48 hours of defacement.
8. **Public Works Clearance.** A Development Clearance shall be obtained from the Public Works Department, Room 308, (408) 277-5161, and is subject to the following requirements (3-00571) to the satisfaction of the Director of Public Works:
 - a. *Storm Drainage, Sewer Fees.* Storm drainage area fees, sanitary sewer connection fees and sewage treatment plant fees are due, less previous credits.
 - b. *Grading Permit.* A grading permit is required prior to issuance of the Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.

- c. *Soils Report.* A soils report addressing the potential hazard of liquefaction must be submitted to and accepted by the City's Engineering Geologist.
- d. *Street Improvements.* The existing UPRR tracks and facilities on the project's Savaker Street frontage (from the property line to the centerline of the street) shall be removed. Regrade the street area and replace with new asphalt, curb, gutter, and sidewalk. Reduce the width of the existing driveway on Savaker to accommodate the on-site parking arrangement.
- e. *Electrical.* Installation and/or relocation of electroliers on the project frontage may be required.
- f. *Landscape.* Install street trees in tree wells within the public right of way at the back of curb along the project's Sunol Street and Savaker Street frontages per City standards. The location of the street trees will be determined at the street improvement stage. Contact the City Arborist for the designated street tree.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance